

(2) Grants the provider 45 days from the date of the notice to submit the information or evidence showing that the determination is in error; and

(3) Informs the provider of its right to hearing.

(d) *Right to hearing.* If the denial of payment determination goes into effect at the expiration of the 45-day period, it constitutes an “initial determination” subject to administrative and judicial review under part 498 of this chapter.

[56 FR 8840, Mar. 1, 1991; 56 FR 23022, May 20, 1991]

Subpart C—Posthospital SNF Care

§ 409.20 Coverage of services.

(a) *Included services.* Subject to the conditions and limitations set forth in this subpart and subpart D of this part, “posthospital SNF care” means the following services furnished to an inpatient of a participating SNF, or of a participating hospital or critical access hospital (CAH) that has a swing-bed approval.

(1) Nursing care provided by or under the supervision of a registered professional nurse;

(2) Bed and board in connection with the furnishing of that nursing care;

(3) Physical, occupational, or speech therapy;

(4) Medical social services;

(5) Drugs, biologicals, supplies, appliances, and equipment;

(6) Services furnished by a hospital with which the SNF has a transfer agreement in effect under § 483.75(n) of this chapter; and

(7) Other services that are generally provided by (or under arrangements made by) SNFs.

(b) *Excluded services*—(1) *Services that are not considered inpatient hospital services.* No service is included as posthospital SNF care if it would not be included as an inpatient hospital service under §§ 409.11 through 409.18.

(2) *Services not generally provided by (or under arrangements made by) SNFs.* Except as specifically listed in §§ 409.21 through 409.27, only those services generally provided by (or under arrangements made by) SNFs are considered as posthospital SNF care. For example, a type of medical or surgical procedure

that is ordinarily performed only on an inpatient basis in a hospital is not included as “posthospital SNF care,” because such procedures are not generally provided by (or under arrangements made by) SNFs.

(c) *Terminology.* In §§ 409.22 through 409.36—

(1) The terms *SNF* and *swing-bed hospital* are used when the context applies to the particular facility.

(2) The term *facility* is used to mean both SNFs and swing-bed hospitals.

(3) The term “swing-bed hospital” includes a CAH with swing-bed approval under subpart F of part 485 of this chapter.

[48 FR 12541, Mar. 25, 1983, as amended at 50 FR 33033, Aug. 16, 1985; 58 FR 30667, May 26, 1993; 63 FR 26306, May 12, 1998]

§ 409.21 Nursing care.

(a) *Basic rule.* Medicare pays for nursing care as posthospital SNF care when provided by or under the supervision of a registered professional nurse.

(b) *Exception.* Medicare does not pay for the services of a private duty nurse or attendant. An individual is not considered to be a private duty nurse or attendant if he or she is an SNF employee at the time the services are furnished.

[63 FR 26306, May 12, 1998]

§ 409.22 Bed and board.

(a) *Semiprivate and ward accommodations.* Except for applicable deductible and coinsurance amounts Medicare Part A pays in full for semiprivate (2 to 4 beds), or ward (5 or more beds) accommodations.

(b) *Private accommodations*—(1) *Conditions for payment in full.* Except for applicable coinsurance amounts, Medicare pays in full for a private room if—

(i) The patient’s condition requires him to be isolated;

(ii) The SNF has no semiprivate or ward accommodations; or

(iii) The SNF semiprivate and ward accommodations are fully occupied by other patients, were so occupied at the time the patient was admitted to the SNF for treatment of a condition that required immediate inpatient SNF care, and have been so occupied during the interval.